United States Court of Appeals

for the Second Circuit

BRIEF FOR APPELLEE

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To be argued by
AUDREY STRAUSS

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United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 75-6155

UNITED STATES OF AMERICA,
Appellee,

—v.—

RAFAEL FONTANEZ, a/k/a "LEFTY",
Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR THE UNITED STATES OF AMERICA

ROBERT B. FISKE, JR.,
United States Attorney for the
Southern District of New York,
Attorney for the United States
of America.

FRANK H. WOHL,
AUDREY STRAUSS,
Assistant United States Attorneys,
Of Counsel.

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Preliminary Statement

Rafael Fontanez appeals from a judgment of conviction entered on May 28, 1976, in the United States District Court for the Southern District of New York, after a four-day trial before the Honorable Inzer B. Wyatt, United States District Judge, and a jury.

Indictment 75 Cr. 44, filed January 16, 1975,* charged Rafael Fontanez and co-defendant Adolpho Rivera in Count One with conspiracy to murder Jerry Castillo, a Special Agent of the Drug Enforcement Administration, in violation of Title 18, United States Code, Sections 1117, 1114 and 1111. Count Two charged Fontanez and Rivera with assaulting Castillo with intent to rob him of $14,000

* Indictment 75 Cr 44 superseded Indictment 74 Cr. 1013 filed October 29, 1974.

belonging to the United States in violation of Title 18, United States Code, Section 2114. Count Three charged both defendants with putting Castillo's life in danger with a thirty-eight caliber revolver in attempting to effect the robbery charged in Count Two. Count Four charged Fontanez and Rivera with assaulting a federal officer in violation of Title 18, United States Code, Section 111. Count Five charged both defendants with the use of a deadly and dangerous weapon in the commission of the assault charged in Count Four. Count Six charged the defendants with unlawfully carrying a firearm during the commission of, and with using a firearm to commit, the felony charged in Count One, in violation of Title 18, United States Code, Section 924(c)(1). Count Seven charged Fontanez alone with possession while under indictment of a firearm which had been transported in interstate commerce in violation of Title 18, United States Code, Section 922(h)(1).

On January 27, 1975, on the eve of the joint trial of both defendants, Fontanez was found incompetent to stand trial and was committed to the custody of the Attorney General for observation and examination pursuant to Title 18, United States Code, Section 4246. Trial proceeded against Rivera at that time. That trial resulted in Rivera's conviction on Counts Two, Three Four and Five of the indictment.* The convictions on Counts Two and Three were reversed and on Counts

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* During that trial Judge Wyatt dismissed Counts One and Six, conspiracy to murder a federal officer and use of a firearm during the course of that crime, against Rivera holding that the Government had not proved that the defendant knew that the person he conspired to murder was a federal officer or employee, relying on this Court's decision in *United States* v. *Alsondo*, 486 F.2d 1339 (2d Cir. 1973), which was reversed two months later as *United States* v. *Feola*, 420 U.S. 671 (1975).

Four and Five were affirmed in *United States* v. *Rivera*, 521 F.2d 125 (2d Cir. 1975).*

On April 9, 1976 Judge Wyatt found Fontanez competent to stand trial. Trial commenced on April 12, 1976 on four counts, charging conspiracy to murder (Count One), assault on a federal agent and use of a dangerous weapon in the course of that assault (Counts Four and Five) and possession while under indictment of a firearm which had been transported in interstate commerce (Count Seven), the remaining counts having been dismissed on the Government's consent prior to trial. On April 15, 1976 the jury returned a verdict of guilty on Counts Four, Five and Seven. On the following day Judge Wyatt discharged the jury as deadlocked on Count One. (Tr. 501).**

On May 28, 1976 Judge Wyatt sentenced Fontanez to concurrent terms of three and ten years on Counts Four and Five and a consecutive term of five years on Count Seven. At that time the Government consented to dismissal of Count One.

Statement of Facts

The Government's Case

On the evening of October 17, 1974, Jerry Castillo and Cruz Cordero, two undercover agents of the Drug Enforcement Administration, were introduced to Rafael Fontanez inside the Chateau Bar in Brooklyn. (Tr. 3-4,

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* The convictions on Counts Two and Three were reversed on the ground that 18 U.S.C. § 2114 requires a "postal nexus." 521 F.2d at 127.

** "Tr." refers to pages of the trial transcript; "GX" refers to Government Exhibit; "Br." refers to Appellant's Brief.

16-17). Cordero told Fontanez, who was using the name "Lefty," that he and Castillo were interested in purchasing one-eighth kilogram of heroin for $6500. (Tr. 5, 17). Fontanez said there would be no problem in obtaining the heroin and some cocaine as well, but that it would take approximately an hour and forty-five minutes to produce the narcotics, which were in the Pelham Bay area of the Bronx. Cordero told Fontanez he could not wait that long. (Tr. 6-7,17). Fontanez and Cordero then exchanged telephone numbers so that the heroin purchase could be arranged for the next day. (Tr. 7, 17-18).

The following day, Cordero called the number Fontanez had given him and had several telephone conversations with Fontanez. They agreed that Cordero's partner, Jerry, would meet Fontanez that evening at 6:00 at 163rd Street and Grand Concourse in the Bronx to exchange $14,000 for one-quarter kilogram of heroin. (Tr. 9-13).

Special Agent Jerry Castillo met Fontanez at the agreed place at about 6:30. (Tr. 20). Fontanez complained that Castillo was late and said that he had tried to call the number Cordero had given him—the Drug Enforcement undercover telephone—and that the person who answered the telephone did not speak Spanish. (Tr. 20-21). After Castillo allayed Fontanez' suspicions with an explanation, Castillo drove Fontanez to a grocery store a few blocks away where Fontanez made a telephone call to his connection. (Tr. 18-22). Fontanez returned to Castillo's car and told him that his source was ready and that Fontanez wanted to see the money right there. Castillo agreed, but before opening the trunk he asked Fontanez if he was carrying a gun. Fontanez said he was not, and raised his jacket and turned around so that Castillo could see that he had no weapon. Castillo then

opened the trunk and displayed the $14,000, which was in new one-hundred-dollar bills in a brown paper bag. (Tr. 2223). Fontanez said that only police carry new one-hundred-dollar bills, but Castillo explained that he had obtained the bills through a friend who worked in a bank. (Tr. 23).

As they departed, Fontanez insisted upon driving the car because he knew where to go. Fontanez then drove Castillo on a wild ride through the Bronx, driving very fast and very slow, making irregular turns, and always checking the rear view mirror to see if police were following him. (Tr. 25).

Ultimately, Fontanez drove Castillo to 196th Street and Colonial Avenue in the Bronx, where he parked the car, took the keys from the ignition and started to walk away. Castillo told Fontanez to leave the keys, but Fontanez insisted that he needed the keys to show his connection that he had access to the money. Castillo continued to protest, and Fontanez relented, stating that he preferred dealing with "Willie" (Agent Cordero) because "Jerry" (Agent Castillo) was too nervous. (Tr. 30-31).

Fontanez got out of the car and walked less than a block along 196th Street and entered an apartment building at 2135 Colonial Avenue. He came back out of the building almost immediately and began throwing pebbles at windows and calling out "Zap, Zap." * A few moments later Fontanez went into the building again. This time he and Adolpho Rivera came out and walked to the parked car where Agent Castillo was waiting. Fontanez was carrying a brown paper bag. (Tr. 93).

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* Fontanez had an associate called Zapata who lived in the Bronx. (Tr. 281).

Fontanez went to the driver's side of the car and told Castillo, through the partially open window, "I got the stuff. Let me show it to you. It's real good." (Tr. 31). As soon as Castillo opened the door, Fontanez pointed a loaded thirty-eight caliber revolver at Castillo and said, "Move over and let my man in the rear seat," referring to Rivera. Rivera then opened the car door on the passenger's side and got into the back seat. (Tr. 32).

As soon as Rivera got into the car, Fontanez took the car keys from the ignition and told Castillo he was going to kill him. Castillo told Fontanez that he could have the money, but begged Fontanez not to kill him. Fontanez then instructed Castillo to put his hands behind his back. When Castillo complied, Rivera grabbed Castillo's wrists and held his hands behind his back while Fontanez continued to point the gun at Castillo. Fontanez told Rivera to handcuff Castillo, saying he would drive Castillo elsewhere to shoot him. (Tr. 31-35).

As Rivera was preparing to handcuff Castillo, a surveillance team of other agents, responding to Castillo's removal of his hat as an arrest signal (Tr. 99), surrounded the car with their guns drawn and pointed them at Fontanez and Rivera. (Tr. 34-35). Special Agent Rodriguez told Fontanez, "Police. Drop the gun. Raise your hands." As Fontanez quickly dropped the gun, pushed it under the car seat and raised his hands (Tr. 99, 113-14), Castillo opened the car door and rolled out of the car onto the street. (Tr. 34-35). Fontanez and Rivera were arrested. (Tr. 35). The gun, retrieved from under the car seat, was found to be loaded and operable. (Tr. 112-14). Subsequent investigation showed that the gun had been manufactured by R .G. Industries located in Miami, Florida, and that on September 4, 1974 the gun had been sold by Jessup's Pawn Shop, in Daytona

Beach, Florida to a Frank Clark. (Tr. 59-62). The paper bag, GX 2, was found to contain a non-narcotic substance. (Tr. 107).

The Defense Case

The defense presented an insanity defense based on the testimony of two psychiatrists and a former psychology teacher and consultant. Dr. Robert D. Ferrell testified that at the time of the crimes Fontanez was suffering from a mental disease or defect, which Dr. Ferrell diagnosed as an organic brain syndrome (Tr. 145-46), "so substantial that he lacked capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law." (Tr. 151). Dr. Naomi Goldstein testified that in her opinion there was a "good" possibility that on October 17 and 18, 1974 Fontanez was suffering from a mental disease or defect (Tr. 214-15), but that she had not been able to form an opinion on whether Fontanez' illness was such as to have "caused him to have lacked substantial capacity to appreciate the wrongfulness of his conduct or conform his conduct to the law." (Tr. 215). Dr. Goldstein said that in order to form such an opinion she would need more information about the facts of the crime, although she agreed that the facts she had learned in her twenty-minute review of the trial testimony revealed a "fairly intricate set of events" indicating that the defendant "seemed to have some awareness of the nature of what he was doing," including that he was breaking the law. (Tr. 216-17).

The defense also called Lois Briggs who held a masters degree in clinical psychology, had taught psychology at Southwest Missouri State University and had been employed part-time at the United States Medical Center,

Springfield, Missouri as a consultant in psychometry and psychology. (Tr. 241-45). Mrs. Briggs testified that her duties at the Medical C nter consisted primarily of administering various psychological tests to patients the results of which she reported to her supervisor, a psychiatrist. Sometimes she would be asked for her diagnosis which the psychiatrist would either accept or reject. (Tr. 264-65). Mrs. Briggs testified without objection that on the basis of various tests she had given to Fontanez and her observations of him, she had concluded that he was mentally retarded (Tr. 248), that he had "severe personality problems" and "neurological problems" (Tr. 254) and that on October 17 and 18, 1974 he suffered from a mental disease or defect which she described as "chronic schizophrenia and also neurological impairment." (Tr. 258). When, however, defense counsel asked Mrs. Briggs, for the second time, whether Fontanez suffered from a mental disease or defect on October 17 and 18, 1974, Judge Wyatt sustained the Government's objection on the ground that Mrs. Briggs was not qualified to testify to an opinion on whether the defendant had a mental disease or defect. (Tr. 261-62).

The Government's Rebuttal Case

On rebuttal the Government called Dr. George Wilkie, a practicing psychiatrist in New York City and a member of the teaching staff at Columbia College of Physicians and Surgeons (Tr. 303-28), and Dr. Pierre Dwyer one of the psychiatrists at the United States Medical Center, who was responsible for Fontanez' treatment while he was there from June 1975 until shortly before the trial. (Tr. 329-62). Both of these psychiatrists testified that, based on the agents' testimony describing Fontanez' behavior on October 17 and 18, 1974 as well as their ex-

aminations of him. Fontanez was not, despite his manifest mental problems, then suffering from such a mental disease or defect as to render him substantially incapable of appreciating the wrongfulness of his conduct or of conforming his conduct to the requirements of the law. (Tr. 305, 331-32).

The Government also established that two days after his arrest Fontanez, who claimed amnesia to the psychiatrists, related to his friend the events leading to his arrest and asked his friend to arrange for Fontanez to cooperate with the Government in order to get out of jail. (Tr. 276-80). Within the following few weeks Fontanez made similar proposals directly to Drug Enforcement Administration agents. (Tr. 287-91).

ARGUMENT

POINT I

The Evidence of Fontanez' Guilt of Unlawfully Receiving a Firearm Which Had Been Transported in Interstate Commerce Was Overwhelming.

The evidence adduced at trial clearly established Fontanez' guilt on Count Seven, which charged that, while under indictment he had possessed a firearm which had been transported in interstate commerce. It was stipulated that on October 18, 1974 Fontanez was under a felony indictment. (Tr. 107). The proof showed beyond any doubt that when Fontanez emerged from 2135 Colonial Avenue on that evening, he possessed a loaded thirty-eight caliber revolver, which had been manufactured in Florida and, on September 4, 1974, had been sold in Daytona, Florida by Jessup's Pawn Shop to one Frank Clark. (Tr. 59-64).

In this Court Fontanez argues, as he did not below, that this proof fails to establish a violation of 18 U.S.C. § 922(h) because the Government did not show that the interstate transportation of the firearm was prior to Fontanez' receipt of it. The defense argument acknowledges the Supreme Court's recent holding in *Barrett* v. *United States*, 423 U.S. 212 (1976) that the interstate nexus required by 18 U.S.C. § 922(h) is established by showing receipt of a firearm "that previously had moved in interstate commerce." 423 U.S. at 225. *Barrett* makes clear that there is no requirement that the defendant's receipt itself be part of an interstate transaction.

Here Judge Wyatt instructed the jury in almost the precise language of *Barrett* (Tr. 466-67), and the jury's finding that Fontanez received the weapon after it had traveled in interstate commerce was well supported by both direct and circumstantial evidence. Castillo testified that shortly after he met Fontanez on the evening of October 18, 1974, Fontanez told him he had no gun and exhibited his waistband to confirm that he was not carrying a weapon. (Tr. 22-23). Only after Fontanez had gone into 2135 Colonial Avenue and emerged with Rivera did the gun appear. The jury would have been entirely justified in finding that Fontanez received the gun at that time.

Even if Fontanez had received the gun before that evening, however, the evidence indicated that he had received it somewhere other than in Florida. The evidence showed that Fontanez lived with his wife and child in Brooklyn. (Tr. 271). There was no proof that he had gone to Florida during September or October 1974.* Ac-

* Defense Exhibit A, Fontanez, Veterans' Administration outpatient record, show that Fontanez visited the Veterans' Administration clinic in New York on August 12 and September 11, 1974.

cordingly, the evidence strongly supported the jury's conclusion that Fontanez received the gun after it had been transported in interstate commerce. See *United States v. Craven*, 478 F.2d 1329 (6th Cir. 1973).

POINT II

Admission of the Pawnshop Clerk's Testimony Was not Reversible Error.

Fontanez argues that his conviction should be reversed because of a claimed error in admitting the testimony of Joseph Curran, a clerk at Jessup's Pawnshop. Curran identified the gun, GX 3, by comparing its serial number with business records, GXs 4, 5, 6, he made at the time of the sale. (Tr. 62-63). Curran also testified that the number on the gun, Q055670, appeared in his records as 0055670 because he had made an error in copying. Based on his experience as a clerk in that pawnshop, Curran testified that A. G. Industries, the company that manufactured the pistol, did not normally use the letter "O" at the beginning of serial numbers of its products. (Tr. 64). He therefore was able to identify the gun in court despite the one-letter variance in the transcription of the serial number.

Fontanez' attacks on Judge Wyatt's admission of Curran's testimony are without merit. Curran was clearly competent to testify as to his own error in copying the serial number and, under Rule 406 of the Federal Rules of Evidence, to testify concerning the routine practice of the manufacturer. 2 Weinstein's Evidence 406-1, 406-18; 1 Wigmore, Evidence, § 94.

In any event, Fontanez' challenge to this evidence should be evaluated in light of the minor significance of

Curran's testimony in the trial. The only issue on which Curran testified, the interstate transportation of the gun, was also established by Special Agent John O'Brien of the Bureau of Alcohol, Tobacco and Firearms who testified that the manufacturer of the revolver in question is located in Florida. (Tr. 112-13).

POINT III

The Firearm and Ammunition Were Properly Admitted Into Evidence.

Also without merit is Fontanez' attack on the admission into evidence of the gun, GX 3, and ammunition, GX 3-A. The defense claims that the chain of custody relating to these exhibits was inadequate.

The proof, however, shows an entirely proper authentication of this evidence. The Government established that Special Agent Steve Moran of the Drug Enforcement Administration found the loaded gun under the car seat where Fontanez was sitting just prior to his arrest. Moran then turned the weapon over to Special Agent John Costanzo (Tr. 113-14) who, along with Special Agent Castillo, unloaded it and placed the pistol and bullets in envelopes which were then deposited in a vault. (Tr. 37-39, 77-79). Special Agent Castillo also noted the serial number of the gun. (Tr. 38). Three days later, on October 21, 1974, Special Agent Castillo delivered the pistol and bullets to Special Agent O'Brien who etched his initials into the weapon and then tested it, finding it to be operable. (Tr. 112).

At trial Special Agents Castillo and O'Brien both identified the weapon—Special Agent Castillo by the serial number (Tr. 37-38), and Special Agent O'Brien by his etched initials. (Tr. 110). Special Agent Costanzo and Special Agent O'Brien also identified the five rounds

of ammunition by the envelope containing them. (Tr. 78-79, 111). The requirement of authentication is met by "evidence sufficient to support a finding that the matter in question is what its proponent claims." Rule 901(a), F.R.Ev.; *United States* v. *Natale*, 526 F.2d 1160, 1173 (2d Cir. 1975), *cert. denied*, 44 U.S.L.W. 3608 (1976). See also *United States* v. *Montalvo*, 271 F.2d 922, 925 (2d Cir. 1959), *cert. denied*, 361 U.S. 961 (1960). More than sufficient evidence was adduced to authenticate these exhibits and to permit their admission into evidence.

POINT IV

Judge Wyatt did not Err in Limiting the Defense Psychology Consultant's Testimony.

The defense claim of reversible error in Judge Wyatt's limitations on the testimony of a defense psychology consultant, Lois Briggs, is clearly insubstantial when evaluated in the context of the psychiatric evidence admitted at this trial. The defense contends that the witness was not allowed to express an opinion on the question of whether the defendant had a mental disease or defect on or about October 18, 1974, the date of the crime. (Br. 29). The record reveals, however, that the witness did express such an opinion. Prior to the ruling which the defense claims as error, defense counsel elicited the following testimony from Mrs. Briggs:

> Q. In any event, based upon all of this, is it possible for you to come to the conclusion concerning whether or not in 1974, on October 17th or 18th, Mr. Rafael Fontanez was suffering from any mental disease or defect A. Yes.
>
> Q. What is your opinion? A. Well, it was my opinion that he had—he was suffering from chronic schizophrenia and also neurological impairment.

> Q. When you say "neurological impairment", could you define that for us, please? A. Well, for him to perform the way he did on the test there would have been—had to be something abnormal about the way his nervous system was functioning, that is his brain. He was not operating properly, I guess you could put it.
>
> And my decision on that, his mental illness, was based on the testing and then also on my observation of his behavior. I had a great deal of opportunity to observe him being there three days a week. (Tr. 258-59).

This testimony was never stricken nor was the jury instructed to disregard it. It was when defense counsel put substantially the same question to the witness for a second time, after Judge Wyatt had indicated a view that the witness was not competent to testify to an opinion concerning mental diseases and defects, that the following ensued:

> Q. What was your opinion of his mental condition on October 17th, 1974?
>
> Mr. Wohl: I will object then, your Honor.
>
> The Court: Sustained.
>
> Q. What was your opinion as to his psychological condition on the 17th of October, 1975?
>
> Mr. Wohl: I will object.
>
> The Court: Sustained.
>
> Mr. Reisch: I just wonder if the Court can explicitly rule on the basis of sustaining these objections that it is finding this witness unqualified to give opinions as to psychological diagnoses.

The Court: Well, the psychological diagnosis hasn't anything to do with it. We have read the definition—I have already read it, and you have used it in questions to Dr. Goldstein.

Mr. Reisch: Well, I would like to ask this question. This is preliminary to that. I don't know if the Court will permit me to go on——

The Court: No, I don't think I will. I don't believe that she can express an opinion as to a mental disease or defect. I don't think she is qualified to do do. [*sic*] She is obviously very able in her field, and I have permitted her to tell what she did and the results what she did. [*sic*] and on the basis of what qualified psychiatrists have testified you can make arguments to the jury based on that——

Mr. Reisch: I understand.

The Court: ——but I don't say that I can permit her to express an opinion about a medical disease or defect.

Mr. Reisch: So the Court is ruling that a clinical psychologist doesn't have——

The Court: I am ruling that this witness is not going to express the opinions asked for by your questions. That's all I am ruling. (Tr. 260-62).

Defense counsel also elicited Mrs. Briggs' conclusions that her battery of psychological tests showed Fontanez to be mentally retarded (Tr. 248)* and revealed evidence of

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* Dr. George Wilkie testified that lower scores on I.Q. tests as reported by Mrs. Briggs, could also be explained in part by the fact that the patient was taking the tests in his second language. (Tr. 318). Dr. Pierre Dwyer testiled that Fontanez' psychological test results did not, in his opinion, show mental disease and that he would not render a diagnosis based only on such tests. (Tr. 355).

"severe personality problems and that he had neurologic... problems" (Tr. 254), "concrete type of thinking" (Tr. 251-52), and that his results were "typical of people who are quite emotionally disturbed . . . [and] who have something wrong with their nervous system, something wrong with the brain." (Tr. 253).

In addition, the jury heard testimony from four psychiatrists, two called by each side, concerning Fontanez' mental condition at the time of the crime. It also received voluminous documents relating to Fontanez' hospitalization at two psychiatric facilities. All four psychiatrists agreed that Fontanez suffered at some time from a mental disease or defect, although they disagreed over the classification of his illness. (Tr. 145-51, 192-95, 309, 334-36).

The issue at this trial was not whether Fontanez suffered from a mental disease or defect, and Judge Wyatt's sustaining an objection when that question was posed to Mrs. Briggs for a second time was clearly appropriate on the ground that she had already answered that question, and also that her testimony on that issue was cumulative. Although the issue of whether Fontanez' disease or defect was so severe as to render him substantially unable to appreciate the wrongfulness of his conduct or to conform his conduct to law was disputed, defense counsel never posed that question to Mrs. Briggs.

In addition, Judge Wyatt did not exceed the bounds of his discretion in ruling that Mrs. Briggs was not qualified to give an opinion on whether Fontanez had a mental disease or defect. The competency of an expert witness is largely within the discretion of the trial judge. See *Hamling* v. *United States*, 418 U.S. 87, 108 (1974); *United States* v. *Pacelli*, 521 F.2d 135, 140 (2d Cir. 1975), *cert.*

denied, — U.S. — (1976). Although psychologists are generally viewed as qualified to testify concerning the results of the tests they administer, as Mrs. Briggs did, their competency to testify concerning mental diseases and defects is not unquestioned. See *United States* v. *Jenkins*, 307 F.2d 637, 647 (D.C. Cir. 1962) (*en banc*) (Burger concurring, Bastian dissenting). Here Judge Wyatt properly ruled that, in light of Mrs. Briggs' qualifications and the other evidence in this case, her testimony should be limited to the results of the tests she administered. For this reason, as well as the fact that Mrs. Briggs did in fact give the opinion sought by defense counsel, Judge Wyatt's ruling hardly constituted reversible error.

CONCLUSION

The judgment of conviction should be affirmed.

Respectfully submitted,

ROBERT B. FISKE, JR.,
United States Attorney for the Southern District of New York, Attorney for the United States of America.

FRANK H. WOHL,
AUDREY STRAUSS,
Assistant United States Attorneys,
Of Counsel.

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AFFIDAVIT OF MAILING

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

Audrey Strauss being duly sworn, deposes and says that she is employed in the office of the United States Attorney for the Southern District of New York.

That on the 7th day of September, 1976, he served a copy of the within brief by placing the same in a properly postpaid franked envelope addressed:

Kramer Resch Kluger Lane
150 Franklin Ave
Mineola, NY 11501

And deponent further says that he sealed the said envelope and placed the same in the mail box for mailing at One St. Andrew's Plaza, Borough of Manhattan, City of New York.

Audrey Strauss

Sworn to before me this

7th day of September, 1976

Jeanette Ann Grayeb

JEANETTE ANN GRAYEB
Notary Public, State of New York
No. 24-1541575
Qualified in Kings County
Commission Expires March 30, 1977